

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: Methyl Tertiary Butyl Ether (“MTBE”) : **Master File No. 1:00-1898**  
Products Liability Litigation : **MDL No. 1358 (SAS)**  
: **M21-88**  
  
: The Honorable Shira A. Scheindlin  
This Document Relates To: :  
*Crescenta Valley Water District v. Exxon Mobil* :  
Corporation, et al., Case No. 07 Civ. 9453 :  
(SAS) :  
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**BP DEFENDANTS' NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY  
JUDGMENT AS TO CERTAIN CVWD WELLS**

PLEASE TAKE NOTICE that a time and date to be determined by the Court, at the United States Courthouse located at 500 Pearl Street, New York, New York, defendants Atlantic Richfield Company and BP Products North America Inc. ("BP") will, and hereby do, move this Court for an order granting partial summary judgment with respect to the assertion by Crescenta Valley Water District ("CVWD") of claims against BP for any liability related in any manner to: (i) past detections of MTBE in CVWD Wells 1, 6, 7, 9, 10, 11, 12, 14 and/or 15; or (ii) past or future detections of MTBE in CVWD Well 8.

This Motion for Partial Summary Judgment as to Certain CVWD Wells is based upon the following grounds: CVWD's expert Dr. Stephen Wheatcraft has modeled MTBE contributions of zero (0) parts per billion ("ppb") by the former ARCO gasoline service station located at 6454 Foothill Blvd., La Crescenta, California ("former ARCO station") during any and all periods when Wells 1, 6, 7, 8, 9, 10, 11, 12, 14 and 15 actually reported MTBE at concentrations above either California's 5 ppb taste and odor Maximum Contaminant Level ("MCL"), or the current California Detection Limit For Purposes Of Reporting ("DLR") of 0.5 ppb; Dr. Wheatcraft's model also attributes a "Peak Value" of zero (0) ppb as the former ARCO station's "contribution" to any MTBE reported or to be reported in the future in CVWD Well 8; and CVWD's counsel made binding judicial admissions during the course of the March 10, 2011 Pre-Motion hearing to the effect that CVWD would not pursue claims against BP for these wells with zero (0) past MTBE concentrations as modeled by Dr. Wheatcraft.

This Motion for Partial Summary Judgment as to Certain CVWD Wells is and will be based upon this Notice of Motion and Motion; the supporting Memorandum of Points and Authorities; the Local Civil Rule 56.1 Statement of Material Facts Not in Dispute; the Declarations of William T. Costley III and Lawrence A. Cox and attached exhibits; other

documents in the record in this case as further specified in the Memorandum of Points and Authorities and in the Local Civil Rule 56.1 Statement; and such other argument and evidence as the Court may consider in the hearing of this Motion.

Date: March 31, 2011

Respectfully submitted,

  
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BP Products North America Inc.

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**CERTIFICATE OF SERVICE**

William Costley, pursuant to 28 USC 1746, hereby declares under penalty of perjury, that on 31st day of March, 2011, I caused to be served by electronic means upon all parties to the above-referenced matter via LexisNexis File & Serve a true and correct copy of the following document:

**BP DEFENDANTS' NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO CERTAIN CVWD WELLS**



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William Costley